



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 6, 2010

Deputy Chief Holly Nearing
City of Champaign Police Department
FOIA Officer
102 N. Neil St.
Champaign, IL 61820

RE: Pre-Authorization Request – 2010 PAC 11594

Dear Ms. Nearing:

We have received and reviewed the written notice from the City of Champaign Police Department (Department) of its intention to deny disclosure of all police reports involving [REDACTED] for incidents reported between October 1993 and 1995, pursuant to Section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7), which exempts from inspection and copying “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”.

Specifically, on December 15, 2010, [REDACTED] submitted a FOIA request seeking police reports for incidents between October 1993 and 1995 for eleven incidents of “harassment by phone, obscene phone calls, [and] disorderly conduct” by [REDACTED].

The Department sought our office’s approval to withhold the reports in their entirety under the Section 7(1)(c) exemption. It argued that the subject of the reports is an adult, who is not the requestor, and that the contents of the reports would be highly personal to a reasonable person. The Department stated that the privacy interests of the subjects in question outweighed any legitimate public interest in obtaining the documents.

Determination

Section 7(1)(c) exempts from inspection and copying “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”. The exemption defines “unwarranted invasion of personal privacy” as “the

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disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information."

After review of the documents in question, our office has determined that the Department's use of the Section 7(1)(c) exemption to withhold the requested records *in their entirety* is **denied**. There is a legitimate public interest in examining how police officers respond to reports of harassment that mandates the release of some information regarding these criminal allegations while still protecting the privacy interests of those involved in the events. Further, the subject was arrested in connection to the incidents documented in the reports. Please note that Section 2.15(a) of FOIA requires public bodies release certain information contained in arrest records, including:

- Name, age, address and, if available, a photograph of the arrested individual
- Information detailing any charges relating to the arrest
- The time and location of the arrest
- The name of the investigating or arresting law enforcement agency
- If the individual is incarcerated, the amount of any bail or bond; and
- If the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody

5 ILCS 140/2.15(a).

Accordingly, the Department's use of Section 7(1)(c) to redact information that would identify the victim is **approved**. The victims' rights to privacy here outweigh the interests of the public in accessing this information. These redactions may include the victim's name and any information that would identify the victim. Therefore, the Department has met its burden in establishing that Section 7(1)(c) shields this information from disclosure.

Additionally, the Department **may** use 7(1)(c) to **redact identifying information about suspects who were not arrested**. Being accused of harassment or making obscene phone calls is highly personal and having that information released in the absence of an arrest or any charges being filed would be highly objectionable to a reasonable person. The individual's right to privacy in this instance would outweigh any legitimate public interest in obtaining the information.

If the Department believes that other parts of the reports rise to the level of the personal privacy exemption contained in Section 7(1)(c), it may resubmit those specific redactions to our office, along with a detailed summary of the Department's basis for asserting the exemption.

This letter does not provide an opinion or advice regarding any other redactions that may be available under other sections of FOIA, including Section 7(1)(a), 7(1)(b), and 7(1)(d). The Department may release the remainder of the reports in accordance with this letter.

Should you have questions or concerns, please feel free to contact me at (312) 814-8413. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor



By: Rebecca Riddick
Assistant Public Access Counselor

cc:

